

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Case No. 3:23-cv-00064-RJC-SCR**

HELEN BARBARA RYAN,)
)
)
Plaintiff,)
v.)
)
MECKLENBURG COUNTY and)
THE KANIA LAW FIRM, P.A.,)
)
Defendants.)

ORDER

Before the Court is Defendant Mecklenburg County's Motion to Dismiss the Amended Complaint, filed March 23, 2023, (Doc. No. 11), following Defendant's February 3, 2023, removal of this action to federal court (Doc. No. 1).

Based on the record in ECF, the Court notes that, prior to Plaintiff's Amended Complaint and removal to federal court, there were extensions of the mediation and trial dates in the state court proceeding (now, the "Instant Action") "to allow additional time for a sister case related to this matter to conclude . . ." (the "Related Action"). (Doc. No. 1-1 at 66, Ryan v. Mecklenburg Cnty., No. 21-CVS-18976 (Mecklenburg Cnty. Super. Ct.); see also Doc. No 1-1 at 75-76, 94-97).

The Court further observes that Plaintiff submitted a motion to stay the state court proceeding with the consent of The Kania Law Firm, "pending the outcome of [the Related Action], County of Mecklenburg v. Ryan, Mecklenburg County case No. 18-CVD-495 and N.C. COA Case No. 21-205 (N.C. Ct. App.)" and a pending Petition for Writ of Certiorari (the "Writ Petition") to the North Carolina Supreme Court filed by Mecklenburg County. (Doc. No. 1-1 at 75-76). Plaintiff's motion to stay indicated that "[i]t is uncertain what damages will be considered in the [Related] Action but the restitution award in the [Related] Action will certainly overlap with

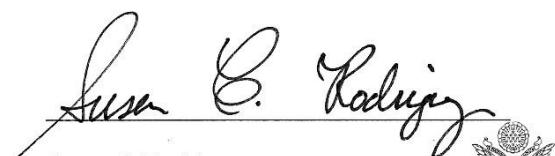
the claimed damages of [the Instant A]ction.” (Id. at 76.) Even in Plaintiff’s Motion to Amend Complaint, Plaintiff acknowledged the parties’ efforts to “significantly extend the deadlines” in the Instant Action, when it was in state court, due to the pending Related Action until the North Carolina Supreme Court reviewed the Writ Petition. (Doc. No. 1-1 at 94-97). Thereafter, the state court granted Plaintiff’s Motion to Amend Complaint (Doc. No. 1-1 at 223), and the Instant Action was removed to federal court. (Doc. No. 1). Having reviewed this record, it appears a stay in this case may be warranted based on the pending Writ Petition before the North Carolina Supreme Court in the Related Action.

NOW THEREFORE IT IS HEREBY ORDERED that:

1. The parties shall file supplemental briefs no longer than ten pages and due by Wednesday, July 5, 2023, on: (1) the status of the pending Writ Petition; (2) their positions with respect to staying the Instant Action pending the North Carolina Supreme Court’s review of the Writ Petition and the final resolution of the initial foreclosure action, including the restitution hearing.
2. The Clerk is directed to send copies of this Order to the parties’ counsel, and to the Honorable Robert J. Conrad, Jr.

SO ORDERED.

Signed: June 20, 2023



Susan C. Rodriguez
United States Magistrate Judge

